

### **REMARKS**

Claims 1, 4, 5, 6, 9, 10, 14-22 are pending. By this response, 1, 4, 6, 9 and 10 are amended, claims 2, 3, 7, 8 and 11-13 canceled, and claims 21 and 22 added. Reconsideration and allowance based on the above amendments and following remarks are respectfully requested.

#### **Allowable Subject Matter**

Claims 4 and 9 were stated as containing allowable subject matter. Applicants note that claims 4 and 9 have been amended into independent form to include the limitations of their respective base claims 1 and 6. Also, Applicants note that the §112 issues with respect to claims 4 and 9 have been addressed. Thus, claims 4 and 9 are now in allowable condition.

#### **Claim Objections**

Claims 8-10 stand objected to due to informalities. In response, Applicants have amended claims 8-10 to address these informalities. Accordingly, withdrawal of the objection is respectfully requested.

#### **§112, 2<sup>nd</sup> Paragraph**

Claims 2-4 and 7-9 stand rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph as being indefinite. In response, Applicants have amended claims 2-4 and 7-9 to address the indefinite issues. Accordingly, withdrawal of the rejection is respectfully requested.

#### **Prior Art Rejections**

Claims 1, 2, 5-7 and 10-13 stand rejected under 35 U.S.C. §102(e) in view of Lee et al. (US 7,274,638) and claims 3 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee. These rejections are respectfully traversed.

Claims 1 and 6 have been amended to include the features of claims 3 and 8, respectively. Specifically, claims 1 and 6 each recite, *inter alia*, wherein the test recording areas in the odd-numbered recording layers are formed adjacent one of the innermost circumference and the outermost circumference of the optical disc, and the test recording areas in the even-numbered recording layers are formed adjacent another one of the innermost circumference and the outermost circumference of the optical disc. Applicants respectfully submit that Lee fails to teach or suggest these features.

The Examiner asserts that Fig. 8 of Lee teaches the features originally recited in claims 3 and 8. In Fig. 8 of Lee, OPC\_L0 is shown on the right side and OPC\_L1 is shown on the left side. However, on the left side of Fig. 8 is shown the block with the three dots “...” which indicates that these blocks are continued. This teaches that this is not a boundary but instead continues and includes more data. Thus, OPC\_L1 is not an inner boundary. Further, the specification does not indicate that OPC\_L1 is an inner boundary or inner circumference.

Therefore, Lee fails to teach or suggest these features of Applicants claims 1 and 6 and in fact, teaches to the contrary.

Also, regarding new claims 21 and 22, Applicants respectfully submit that Lee fails to teach or suggest, *inter alia*, ‘wherein non-reproducing areas of the odd numbered recording layers are mutually aligned in the thickness direction of the test recording areas of the even numbered layers and vice versa.’ Lee teaches “reserve area” which are recording areas reserved for specific data but are not non-reproducing areas as recited in claims 21 and 22. The non-reproducing areas in Applicants claims do not include any type of data. Thus, Lee fails to teach non-reproducing areas as claimed. Therefore, Lee fails to teach or suggest the features of independent claims 21 and 22.

In view of the above, Applicants respectfully submit that Lee fails to teach or suggest features of independent claims 1, 6, 21 and 22 as required. Further, Lee fails to teach or suggest the features of claims 4, 5, 10, and 14-20 or the features therein or

at least for the dependency upon their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Conclusion

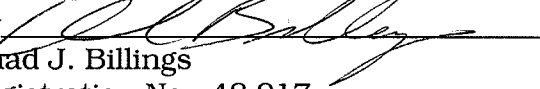
For at least the above reasons Applicants respectfully submit claims 1, 4, 5, 6, 9, 10 and 14-22 are distinguishable over the cited art. Favorable consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings Reg. No. 48,917 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By   
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